


at *2 (S.D.N.Y. June 29, 2022); *accord Levine v. Apker*, 455 F.3d 71, 78 (2d Cir. 2006); *United States v. Thomas*, No. 17-CR-350 (LAP), 2021 WL 1016034, at *1 (S.D.N.Y. Mar. 17, 2021). Moreover, before seeking such relief pursuant to Section 2241, a defendant “must first exhaust administrative appeals.” *Thomas*, 2021 WL 1016034, at *1; *accord Lesane v. Tellez*, No. 21-CV-2074 (LTS), 2021 WL 3500916, at *2 (S.D.N.Y. Aug. 4, 2021). As relevant here, that involves pursuit of “a multistep process under BOP regulations, ranging from requesting informal resolution of a complaint to raising that complaint to the BOP Regional Director and, ultimately, to the General Counsel of the BOP.” *United States v. Wusebio*, No. 04-CR-607 (LAP), 2007 WL 582745, at *2 (S.D.N.Y. Feb. 21, 2007) (citing 28 C.F.R. §§ 542.13-542.15 (2006)). Curry has not yet exhausted these remedies, *and* this District is not the district of his incarceration.

For these reasons, the Court is compelled to deny Curry’s motion. That said, the Court takes the opportunity to confirm (or clarify, as the case may be) that, when sentencing Curry, it did indeed contemplate that he would receive credit for the time he spent in the BOP’s custody beginning July 27, 2020. *See* ECF No. 763-2, at 11, 14, 30. Moreover, a review of the sentencing transcript makes plain that counsel for both parties — including counsel for the Government — had the same expectation and understanding. There was extended discussion about whether Curry should receive credit for the period from March 30, 2020, through July 27, 2020, and the Court ultimately concluded that he should not (but varied downward to account for that time). *See id.* at 10-14, 28-31. But it was everyone’s clear understanding that the time Curry served in BOP custody beginning July 27, 2020, would indeed be credited toward his sixty-month term of imprisonment in this case. Accordingly, while the Court is constrained to deny Curry’s motion, it very much hopes that the BOP ultimately gives Curry credit for the

relevant time, either voluntarily (as a result of the administrative process) or as a result of a Section 2241 petition. If the BOP does not, Curry can and should file a new motion here pursuant to Section 3582(c)(1)(A).

SO ORDERED.

Dated: February 26, 2024
New York, New York



JESSE M. FURMAN
United States District Judge